EXPLOSIVES—DUMPING REFUSE ON VACANT LOTS—INJURY TO CHILDREN.—TRAVELL V. BANNERMAN, 75 N. Y. Supp. 866.—Defendant, an ammunition manufacturer, used an unfenced lot as a dumping place for refuse. Plaintiff was approached by two other boys with a mass of gunpowder found there, which exploded while they were extracting pieces of brass therefrom. *Held,* that action for injuries would lie, as it was a question for the jury whether defendant had used proper care. Goodrich, P. J., dissenting.

The court bases its decision on the ground that the presence of brass in the powder rendered it enticing to children and so brought it within the rule referred to in the leading case of *Walsh v. Railroad,* 145 N. Y. 301. But there would seem to be good reason for the contrary view, based on the principle that when a person comes upon the premises of another without invitation he is a bare licensee, and if any injury is sustained by reason of a defect in the premises, the owner is not liable. *Cusick* v. *Adams,* 115 N. Y. 55; *Larmore v. Iron Co.,* 101 N. Y. 391. In the recent case of *Brinkley Car Works & Mfg. Co. v. Cooper,* 67 S. W. 572, the Supreme Court of Arkansas followed *Gillespie v. McGowan,* 100 Pa. 144, and refused to recognize the New York doctrine, saying that to follow it to its logical conclusion would "charge the duty of protecting children upon every member of the community except upon their own parents."

HIGHWAYS—PEDESTRIANS—WALKING AT NIGHT—NEGLIGENCE.—SIEGLER V. MELLINGER ET AL., 52 Atl. 175 (Pa.).—Plaintiff sued town supervisors for damages for an injury from a fall sustained, while walking at night, on the sidepath of a township road. *Held,* that he was presumptively negligent in using the sidepath, the middle of the road being, prima facie, the saf st portion for travel at night.

This court seems to have carried the doctrine of presumptive negligence to an extent contrary to well settled law. A traveller has a right to presume that a highway in use, including the margin thereof, is reasonably safe for ordinary travel. *Davenport* v. *Ruckman,* 37 N. Y. 568. He may presume this at night-time, as well as in daylight. *Pettengill* v. *Yonkers,* 116 N. Y. 558. Travellers on country roads, as well as elsewhere, are privileged to use the entire highway as laid out. *Siddons v. Gardner,* 42 Me. 248; *Seward v. Milford,* 21 Wis. 485.

INDEMNITY INSURANCE—ATTORNEY AND CLIENT—NEGLIGENCE IN APPEAL—BURDEN OF PROOF.—GETCHELL & MARTIN LUMBER & MFG. CO. V. EMPLOYERS' LIABILITY ASSUR. CO., LTD., 90 N. W. 616 (Iowa).—An employer who was insured against loss for personal injuries to its employees to the amount of $1,500 in case of injury to any one employee, was sued by an injured employee, who obtained judgment for $4,300. The insurance company had defended the action and agreed to appeal, but on its failure to perfect it in time, judgment was affirmed on motion. In an action by the employer against the insurer for negligence, *held,* that the burden was on the insured to show damage thereby.

The court refuses to follow the rule laid down in *Godefroy* v. *Jay,* 7 Bing. 413 and followed in *Whart., Neg.,* Sec. 752; *Sherm. and Red., Neg.* (5th ed.) Section 566, that where negligence is shown, resulting in a judgment against the client, the attorney has the burden of showing that the client was not damaged thereby. The rule has been criticized in other cases. *Collier* v.